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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/773,968	02/06/2004	Paul D. Shirley	MIO 0112 PA/40509/272	7341
23368 7590 06/27/2008 DINSMORE & SHOHL LLP ONE DAYTON CENTRE, ONE SOUTH MAIN STREET SUITE 1300 DAYTON, OH 45402-2023				
EXAMINER EDWARDS, LAURA ESTELLE				
ART UNIT		PAPER NUMBER		
1792				
MAIL DATE		DELIVERY MODE		
06/27/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/773,968

**Applicant(s)**

SHIRLEY, PAUL D.

**Examiner**

Laura Edwards

**Art Unit**

1792

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 13 March 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-37 is/are pending in the application.
- 4a) Of the above claim(s) 21-37 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/CDC)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_
- Paper No(s)/Mail Date \_\_\_\_\_

***Claim Rejections - 35 USC § 102***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1-10 and 12-19 are rejected under 35 U.S.C. 102(b) as being anticipated by Matsuyama (US 2002/0176936) for reasons set forth in the previous office action.

Claims 1-7, 10, 12-15, and 16-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Tateyama et al (US 5,919,520) for reasons set forth in the previous office action.

With respect to claim 10, now based on claim 7, nozzle (AL) is capable of supplying airflow in a vertically downward direction.

***Claim Rejections - 35 USC § 103***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Matsuyama (US 2002/0176936) in view of Chappa et al (US 7,077,910) for reasons set forth in the previous office action.

Claims 8 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tateyama et al (US 5,919,520) in view of Matsuyama (US 2002/0176936) for reasons set forth in the previous office action.

Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Tateyama et al (US 5,919,520) in view of Chappa et al (US 7,077,910) for reasons set forth in the previous office action.

***Response to Arguments***

Applicant's arguments filed 3/13/08 have been fully considered but they are not persuasive.

Applicant contends that all rejections, under 102(b) should be withdrawn because the Examiner has not read the "control fluid" in light of the specification wherein page 3, lines 25 through 27 of the specification describes the control fluid as preferably an air source or inert gas, the latter such as nitrogen, argon or the like that, according to page 6, lines 7 through 8 of the specification, is applied to a portion of the deposited resist to "effect a local thickness change through modification of the evaporation rate of the solvent in the resist".

This argument is not deemed persuasive because the term "control fluid" has been given its broadest reasonable interpretation. The specification only suggests preferred control fluids but does not exclude other fluids including fluids being liquid in form. The 102(b) rejections are deemed proper and therefore have been maintained.

Applicant contends that a prima facie case of obviousness has not been established because the prior art to Matsuyama and Tateyama fails to recognize the "control fluid" interpretation in light of the specification.

This argument is not deemed persuasive because the cited references to Matsuyama and Tateyama do establish a control fluid supply (84) and (AL) respectively, as set forth in the

previous office action and a prima facie case for obviousness has been established with the proper motivation being made for each supplemental reference as required by Graham v. Deere. Therefore, the obviousness rejections have been maintained.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Laura Edwards whose telephone number is (571) 272-1227. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nadine Norton can be reached on (571) 272-1465. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Laura Edwards/  
Primary Examiner  
Art Unit 1792

Le  
June 23, 2008